

ELEVATORS, ESCALATORS AND RELATED EQUIPMENT

Administrative Rules of the Texas Department of Licensing and Regulation

16 Texas Administrative Code, Chapter 74

(Effective November 1, 2018)

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§74.1. Authority. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

The sections in this chapter are promulgated under the authority of the Texas Health and Safety Code, Chapter 754 and Texas Occupations Code, Chapter 51.

§74.10. Definitions. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962)*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **The Act**--Texas Health and Safety Code, Chapter 754, Elevators, Escalators, and Related Equipment.
- (2) **Acceptance Inspection**--An inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1
- (3) **Accident**--An event involving equipment that results in death or serious bodily injury to a person.
- (4) **Alteration**--A change in existing equipment. The term does not include testing, maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.
- (5) **Annual Inspection**--An inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed within that period.
- (6) **ASCE**--American Society of Civil Engineers.
- (7) **ASCE Code 21**--The ASCE Code 21, "Automated People Mover Standards" as adopted in §74.100.
- (8) **ASME**--American Society of Mechanical Engineers.
- (9) **ASME Code A17.1**--The ASME Code A17.1/CSA B 44-07 - "Safety Code for Elevators and Escalators" as adopted in §74.100.
- (10) **ASME A17.2**--The latest published edition of ASME A17.2, "The Guide for Inspection of Elevators, Escalators, and Moving Walks."
- (11) **ASME Code A17.3**--The ASME Code A17.3-2002, "Safety Code for Existing Elevators and Escalators" as adopted in §74.100.
- (12) **ASME Code A18.1**--The ASME Code 18.1, "Safety Standards for Platforms Lifts and Stairway Chairlifts" as adopted in §74.100.
- (13) **ASME QEI-1**--The ASME QEI-1 "Standard for the Qualification of Elevator Inspectors."
- (14) **Automated People Mover (APM)**--A guided transit mode operated by cables, with fully automated operation, featuring vehicles that operate on guideways with exclusive right of way.
- (15) **Board**--The elevator advisory board.
- (16) **Certificate of Compliance**--A certificate issued by the department indicating that the equipment has been inspected by a registered inspector and found to be in compliance with this chapter, except for any delays or waivers granted by the executive director and stated in the certificate.

- (17) **Certifying Organization**--An independent organization that is competent and widely recognized to certify elevator inspectors and that has been accredited by an organization that is nationally recognized and is approved or recognized by the department as competent to certify elevator inspectors.
- (18) **Commission**--The Texas Commission of Licensing and Regulation.
- (19) **Contractor**--A person, partnership, company, corporation, or other entity engaging in the installation, alteration, repair, testing, or maintenance of equipment. The term does not include an employee of a contractor engaged in cleaning or any other work performed on equipment that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A18.1, or ASCE Code 21, as applicable.
- (20) **Delay**--Postponement of compliance with a requirement of the applicable ASME Safety Codes or ASCE Standard as adopted in §74.100, for a specific period of time.
- (21) **Department**--The Texas Department of Licensing and Regulation.
- (22) **Equipment**--An elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.
- (23) **Executive Director**--The executive director of the department.
- (24) **Existing Equipment**--Equipment installed or altered before September 1, 1993.
- (25) **Industrial Facility**--A facility to which access is primarily limited to employees or contractors working in that facility.
- (26) **Inspection report**--A department-approved form used by the inspector to report the inspection results of one unit of equipment.
- (27) **Inspector**--A person engaged in the inspection and witnessing of the tests specified in the adopted standards of ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, to determine compliance with those standards. The term also includes references to registered inspector and registered elevator inspector.
- (28) **New Equipment**--Equipment installed or altered on or after September 1, 1993.
- (29) **Installation Placed Out of Service**--Equipment rendered inoperative in accordance with ASME Code A17.1.
- (30) **Owner**--A person, company, corporation, authority, commission, board, governmental entity, institution, or any other entity that holds title to a building or facility in which equipment regulated by the Act is located. For purposes under this chapter and the Act, an owner may designate an agent. The term “owner” when used in the chapter, shall be construed to include the owner’s agent.
- (31) **Owner’s Agent**--The person, company, corporation, authority, commission, board, governmental entity, institution, or any other entity that has been authorized by the owner to act on the behalf of the owner as relates to a building or facility in which equipment regulated by the Act is located.
- (32) **Proof of Inspection**--A document provided to the owner by the registered inspector after the completion of an acceptance inspection of new equipment to inform the public that the equipment has been inspected.
- (33) **Proof of Inspection Sticker**--An adhesive label placed by the registered inspector on the Proof of Inspection or the certificate of compliance indicating the inspection has been performed.
- (34) **Publicly Visible Area of Building**--A location within the building where regulated equipment is located that is visible to the public in an elevator car or a common area lobby or hallway and

accessible to the public at all times when any regulated equipment is in operation, without the need for the viewer to obtain assistance or permission from building personnel.

- (35) **Qualified Historic Building or Facility**--A building or facility that is:
 - (A) listed in or eligible for listing in the National Register of Historic Places; or
 - (B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.
- (36) **Related Equipment**--The term means:
 - (A) automatic equipment that is used to move a person in a manner that is similar to that of an elevator, an escalator, a chairlift, a platform lift, an automated people mover, or a moving sidewalk; and
 - (B) hoistways, pits, and machine rooms for equipment.
- (37) **Installation Removed from Service**--Equipment rendered inoperative in accordance with standards adopted in §74.105.
- (38) **Reportable Condition**--A condition affecting the safety operation of the equipment and requires that the equipment be rendered inoperative to prevent injury to passengers, operators, or the general public.
- (39) **Responsible Party**--The person or persons meeting the experience requirements of the Act and designated by the contractor to attend continuing education in compliance with this chapter.
- (40) **Serious Bodily Injury**--A major impairment to bodily function or serious dysfunction of any bodily organ or part requiring medical attention.
- (41) **Unit of Equipment**--One elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.
- (42) **Variance, New Technology ("new technology variance")**--Deferral of compliance with a requirement of the applicable ASME/ASCE Safety Codes to allow the installation of new technology if the new component, system, sub-system, function or device is found to be equivalent or superior to the standards adopted in §74.100. A new technology variance, once granted, may be applied to all like equipment installed in the state and a separate variance is not required for each installation. A variance applies to only one component, system, sub-system, function, or device. For example, one seeking a variance for a door system, a control system, and a suspension system would be required to file three separate variance applications.
- (43) **Waiver**--Deferral of compliance with a requirement of the applicable ASME Safety Codes for an indefinite period of time.

§74.20. Inspector Registration Requirements--Initial. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A person may not act as an inspector or engage in any activities that require registration as a inspector in this state unless the person is registered with the department.
- (b) An applicant registering with the department as an inspector must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required by §74.80; and
 - (3) submit a copy of both sides of a valid elevator inspector certification issued by a certifying organization within 12 months preceding the date of the application.

- (c) An applicant must complete an orientation session provided by the department before the registration is issued.

§74.21. Inspector Registration Requirements--Renewal. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

To renew an inspector registration, an inspector must:

- (1) submit a completed application on a department-approved form;
- (2) pay the fee required by §74.80;
- (3) submit a copy of both sides of a valid elevator inspector certification issued by a certifying organization within 12 months preceding the date of the renewal;
- (4) comply with the continuing education requirements of the certifying organization; and
- (5) complete any other mandatory training required by the executive director.

§74.22. Contractor Registration Requirements--Initial. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A person may not act as a contractor or engage in any activities that require registration as a contractor in this state unless the person is registered with the department.
- (b) A person registering with the department as a contractor must:
- (1) submit a completed application on a department-approved form;
 - (2) submit proof of:
 - (A) general liability insurance, as required in §74.40; or
 - (B) self-insurance by a qualifying institution of higher education;
 - (3) pay the fee required by §74.80; and
 - (4) designate at least one responsible party who meets the requirements of §74.24.

§74.23. Contractor Registration Requirements--Renewal. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

To renew a contractor registration, a contractor must:

- (1) submit a completed application on a department-approved form;
- (2) pay the fee required by §74.80;
- (3) provide proof of:
 - (A) general liability insurance, as required by §74.40; or
 - (B) self-insurance by a qualifying institution of higher education; and
- (4) designate at least one responsible party who meets the requirements of §74.24 and §74.25.

§74.24. Responsible Party Eligibility Requirements. *(New section adopted effective July 1, 2012, 37 TexReg 4590)*

- (a) A responsible party designated under this chapter must:
- (1) have a minimum of three years of experience;

- (2) the experience noted in paragraph (1) shall consist of constructing, installing, repairing, maintaining, or testing of equipment as verified in a manner prescribed by the department; and
 - (3) comply with the continuing education requirements as required in §74.25.
- (b) A responsible party may be added to the contractor registration at any time by providing written notice to the department. The written notice must include evidence that the responsible party meets the requirements of this chapter.
 - (c) A responsible party may be removed from the contractor registration at any time by providing written notice to the department. In the event that the responsible party is no longer available due to a change in employment, death or disability, or any other reason, the contractor shall within 30 days re-designate a responsible party.

§74.25. Continuing Education. *(New section adopted effective July 1, 2012, 37 TexReg 4590)*

- (a) Terms used in this section have the meanings assigned by Chapter 59 of this title, unless the context indicates otherwise.
- (b) Each responsible party must complete eight (8) hours of continuing education in courses approved by the department.
- (c) The continuing education hours must have been completed within the term of the current contractor registration, in the case of a timely renewal. For a late renewal, the continuing education hours must have been completed within the one year period immediately prior to the date of renewal.
- (d) A responsible party may not receive continuing education credit for attending the same course more than once.
- (e) The responsible party and the contractor must retain a copy of the certificate of completion for a course for one year after the date of completion.
- (f) To be approved under Chapter 59 of this title, a provider's course must be dedicated to instruction in one or more of the following topics:
 - (1) Texas Health and Safety Code, Chapter 754, Subchapter B, Inspection, Certification, and Registration;
 - (2) Title 16, Texas Administrative Code, Chapter 74, Elevators, Escalators, and Related Equipment;
 - (3) ethics, including business practices; or
 - (4) the technical requirements in §74.100.

§74.30. Exemptions. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

This chapter does not apply to:

- (1) buildings owned and operated by the federal government;
- (2) equipment regulated by a municipal inspection and certification program in accordance with Health and Safety Code §754.018 and §74.65(b) in this chapter;
- (3) equipment located in the following structures if access is limited primarily to employees:
 - (A) industrial facilities;
 - (B) grain silos;

- (C) radio antennas;
 - (D) bridge towers;
 - (E) underground facilities; and
 - (F) dams;
- (4) equipment located in a private building that has two or fewer floors used exclusively by a labor union, trade association, private club, or charitable organization; and
 - (5) elevators located in a single family dwelling except as provided by Texas Health and Safety Code, §754.0141.

§74.40. Contractor Insurance Requirements. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A contractor must maintain general liability insurance at all times during a registration period to satisfy proof of financial responsibility of:
 - (1) not less than \$1,000,000 for each single occurrence of bodily injury or death; and
 - (2) not less than \$500,000 for each single occurrence of property damage.
- (b) The general liability insurance must be written by an insurer authorized to engage in the business of insurance in Texas or an eligible surplus lines insurer, as defined by Insurance Code §981.002.
- (c) A contractor applicant or registrant must file with the department a completed certificate of insurance or other evidence satisfactory to the department when applying for an initial registration, renewing a registration, changing a business name or affiliation, and upon request of the department.
- (d) A contractor must furnish the name of the insurance carrier, the policy number, and the name, address, and telephone number of the insurance agent with whom the contractor is insured to any customer who requests it.
- (e) A contractor applicant or registrant must obtain a general liability insurance policy that contains a provision or an endorsement that gives the department 30 days prior written notice of cancellation.
- (f) As prescribed by Health and Safety Code §754.0112, a contractor that is an institution of higher education or who is an employee of an institution of higher education may provide written evidence of self-insurance to the department to satisfy the insurance requirements under this section.

§74.50. Reporting Requirements--Owner. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962; amended effective July 1, 2018, 43 TexReg 3873)*

- (a) To obtain a certificate of compliance, the owner must submit to the department within 30 days of the equipment inspection date, the following items:
 - (1) the application for certificate of compliance;
 - (2) a copy of the inspection reports for each unit of equipment;
 - (3) written documentation to verify that all violations of the applicable ASME Safety Codes or ASCE Standards as adopted in §74.100, cited on the inspection report, are in compliance with §74.66(6)(A) - (C);
 - (4) any application(s) for delay or waiver if applicable; and
 - (5) all applicable fees.

- (b) The owner must notify the department, in writing and within thirty (30) days, of equipment that has been placed out of service. The equipment must be placed out of service in accordance with the definition in ASME Code A17.1, "*installation placed out of service*."
- (c) The owner must notify the department, in writing and within thirty (30) days, of an elevator that has had alterations converting the equipment to a material lift. The conversion shall comply with the applicable sections of ASME Code A17.1.
- (d) The owner must notify the department, in writing and within thirty (30) days, of a material lift that has had alterations converting the equipment to an elevator. The elevator must be inspected and brought into compliance with ASME Code A17.1 as a new installation.
- (e) When a delay has been approved, the owner must notify the department, in writing within thirty (30) days of the date of correction.
- (f) Within thirty (30) days of the date the equipment has become an Installation removed from service, the owner must notify the department by submitting a completed Inspection report, including the applicable fee required by §74.80.

§74.55. Reporting Requirements--Inspector. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962)*

- (a) For new installations, the inspector must provide a copy of the inspection report to the owner not later than the 5th calendar day after completing the inspection.
- (b) For alterations, the inspector must provide a copy of the inspection report to the department and the owner not later than the 5th calendar day after completing the inspection.
- (c) Inspectors, by e-mail, fax, or letter, must report to the department, within 72 hours of discovery, all equipment they encounter that does not have a decal number.
- (d) The inspector must clearly note on the inspection report any equipment found with a reportable condition, and shall report it immediately by submitting a copy of the report to the owner and by e-mail, fax, or letter to the department within 24 hours.
- (e) Inspectors, using the Online Inspection Reporting System, for each piece of equipment inspected, must report to the department within 72 hours of completing an acceptance inspection, annual inspection or Installation removed from service.

§74.57. Reporting Requirements--Contractor. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) Contractors must, by e-mail, fax, or letter, report to the owner and department, within 24 hours of discovery, all equipment they encounter that has a reportable condition.
- (b) Contractors must report to the department and to the owner, within 72 hours of discovery, all equipment they encounter that does not display a department issued decal number. A report required by this section may be made by email, fax, or letter addressed to the department's chief elevator inspector and to the owner at the owner's most recent address in the contractor's records.

§74.60. Responsibilities of the Department. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective July 1, 2018, 43 TexReg 3873)*

- (a) The certificate of compliance issued by the department will include the following information:
 - (1) building number;
 - (2) decal number;
 - (3) building name;

- (4) inspector's registration number;
 - (5) date of the last inspection;
 - (6) due date of the next inspection; and
 - (7) contact information to report a violation to the department.
- (b) The department will use the following procedures to issue a certificate of compliance:
- (1) review inspection report and fees received by the department;
 - (2) review certification submitted by owner indicating which code violations have been remedied and which code violations are under contract to be corrected;
 - (3) review waiver/delay application and fees received by the department;
 - (4) notify owner of an incomplete submittal and ask for any missing inspection documents and fees;
 - (5) notify owner of any denied waiver or delay requests and ask for certification that violations have been remedied or under contract to be corrected;
 - (6) confirm that the owner submitted an inspection report with the correct amount of filing fees and all deficiencies in the inspection report have been corrected, or under contract to be corrected, or delay or waiver granted; and
 - (7) upon completion of the prior steps, issue a certificate of compliance for each unit of equipment.
- (c) The department shall provide notification to owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment through the department's website, press releases, and group presentations.
- (d) The department shall review and issue a decision on applications for new technology variances in accordance with this chapter.
- (e) The department shall perform the required application and plan review and may approve or deny the application and plans in accordance with this chapter.
- (f) The department may periodically review inspection reports to determine compliance with the applicable statutes and rules.
- (g) The department may require inspector attendance at periodic rules and/or law update seminars conducted by the department when the executive director determines such seminars to be necessary.
- (h) The department may conduct inspector training seminars where attendance by inspectors is not mandatory.

§74.65. Advisory Board. *(New section adopted effective July 1, 2012, 37 TexReg 4590)*

- (a) Board members will serve for staggered three year terms with two regulated industry positions and two consumer positions expiring in each of the first, second, and third years and one consumer position expiring in the third year. Terms shall expire November 1 of the third year of the member's term.
- (b) If with the advice of the Elevator Advisory Board, the executive director determines that the standards of inspection and certification of a municipal inspection and certification program are at least equivalent to those contained in the Act, the municipal ordinance shall apply.
- (c) Board meetings may be called by the executive director or the presiding officer of the commission.

§74.66. Responsibilities of the Owner--Equipment Maintenance and Inspections. *(New section adopted effective November 15, 2013, 38 TexReg 7949)*

- (a) The owner must:
 - (1) maintain the equipment in a safe operating condition and in conformance with the standards and codes adopted in §74.100 and keep the equipment free from reportable conditions;
 - (2) have an annual inspection of each unit of equipment to determine compliance with the applicable standards and codes adopted in §74.100;
 - (3) obtain the services of an inspector registered with the department to perform inspections in accordance with §§74.74 - 74.77 and §74.100;
 - (4) have each unit of equipment tested to determine its safety and compliance with the requirements of the codes and standards as adopted in §74.100.
 - (5) ensure that all of the tests required by the applicable standards and codes adopted in §74.100 are performed; and
 - (6) have all violations cited on an inspection report:
 - (A) corrected within 60 calendar days of the date of inspection;
 - (B) have them under contract to be corrected and all work completed not later than the next inspection due date; or
 - (C) have an approved waiver or delay.
- (b) New equipment installations must have plans and other documents as set forth in this chapter reviewed by the department and must be inspected and tested to determine their safety and compliance with the requirements of the codes and standards as adopted in §74.100 before being placed in service. The equipment must be free of any violations, unless a waiver, delay or new technology variance has been granted by the department in writing, before being placed back into service.
- (c) Altered equipment must have plans and other documents as set forth in this chapter reviewed by the department and must be inspected and tested to determine its safety and compliance with the requirements of the codes and standards as adopted in §74.100 before being placed back in service. The equipment must be free of any violations, unless a waiver, delay or new technology variance has been granted by the department in writing, before being placed back into service.
- (d) When regulated equipment is inspected:
 - (1) for the first time, the owner must display the Proof of Inspection with a Proof of Inspection Sticker at the location defined in §74.67, selected by the owner, until a current certificate of compliance is issued by the executive director.
 - (2) on an annual basis, the owner must display the most current certificate of compliance with a Proof of Inspection Sticker at the location defined in §74.67, selected by the owner, until a current certificate of compliance is issued by the executive director.
- (e) The owner must have equipment re-inspected and re-certified if:
 - (1) the equipment has been altered, including any alteration made to the interior of the elevator car enclosures or flooring;
 - (2) the equipment has been determined to have a reportable condition; or
 - (3) the inspection report shows an existing violation has continued longer than permitted in a delay granted by the executive director.

§74.67. Responsibilities of the Owner--Certificate of Compliance. *(New section adopted effective November 15, 2013, 38 TexReg 7949)*

- (a) The owner must:
 - (1) obtain an annual certificate of compliance from the department evidencing that each unit of equipment in the building is in compliance with the applicable standards and codes adopted in §74.100;
 - (2) have a current certificate of compliance in order to operate regulated equipment; and
 - (3) display the current certificate of compliance in the applicable publicly visible areas of the building as described under subsections (b) and (c).
- (b) A current certificate of compliance for an elevator, platform lift, automated people mover, or related equipment must be displayed in one of the following areas:
 - (1) inside the elevator car enclosure or platform lift, automated people mover, or related equipment passenger enclosure, not more than 7'0" or less than 3'0" above the finished car floor;
 - (2) outside the elevator car enclosure or platform lift or related equipment passenger enclosure, in the main lobby within 10 feet of the call button not more than 7'0" or less than 3'0" above the finished landing floor; or
 - (3) in a common area lobby or hallway location within the building in which the equipment is located that is:
 - (A) accessible to the public without assistance or permission during all hours in which any equipment is in operation; and
 - (B) identified by a plaque mounted in the elevator car enclosure or passenger enclosure or within 10 feet of the call button in the main elevator lobby directing the public to the location where the certificate(s) of compliance is displayed. The font size for letters on the plaque shall be at least 18 points and the plaque must state that the equipment is "Regulated by the Texas Department of Licensing and Regulation" and include the department's telephone number 1-800-803-9202 and the building management's telephone number.
- (c) A current certificate of compliance for an escalator or moving sidewalk must be displayed in one of the following areas:
 - (1) in a common area lobby or hallway location not more than 7'0" or less than 3'0" above the finished landing floor and within the building in which the equipment is located accessible to the public without assistance or permission during all hours in which any escalator or moving sidewalk is in operation; or
 - (2) in a common area lobby or hallway location within the building in which the equipment is located that is:
 - (A) accessible to the public without assistance or permission during all hours in which any escalator or moving sidewalk is in operation; and
 - (B) identified by a plaque mounted within 10 feet of entry or exit of the escalator or moving sidewalk directing the public to the location where the certificate(s) of compliance is displayed. The font size for letters on the plaque shall be at least 18 points and the plaque must state that the equipment is "Regulated by the Texas Department of Licensing and Regulation" and include the department's telephone number 1-800-803-9202 and the building management's telephone number.

§74.68. Responsibilities of the Owner--Other Documents. *(New section adopted effective November 15, 2013, 38 TexReg 7949)*

- (a) The owner must make available to the department and all elevator personnel all maintenance and inspection records, maintenance control programs, maintenance, and repair manuals, and product specific inspection, testing, and maintenance procedures for each make and model number of the equipment, from September 1, 2003, and thereafter, as required by the applicable standards and codes adopted in §74.100.
- (b) The documents, records and programs required under subsection (a) must be in written or electronic format and be stored in the equipment room, machine room, machine space, control room, or control space or be accessible from a location within the building for that specific equipment.
- (c) The owner must have copies of all current department-issued waivers, delays, and new technology variances posted in the equipment room, machine room, machine space, control room, or control space in a readily accessible and visible location available to elevator personnel.

§74.69. Responsibilities of the Owner--Accidents and Reportable Conditions. *(New section adopted effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962)*

- (a) The owner must report all accidents, as defined in Texas Health and Safety Code, §754.011, involving equipment to the department, using a department-approved form, within 24 hours of the accident.
- (b) For an accident reported under this section, the equipment shall be removed from service and shall not be moved (except as necessary to extricate an injured party), used, or returned to service until a representative of the department completes an investigation and issues an approval to return the unit to service.
- (c) If any equipment is determined to have a reportable condition by inspection or other means, the owner must notify the department in writing within 24 hours, and must place the unsafe equipment out of operation until repairs to correct the reportable condition(s) are completed. After repairs have been completed, the owner must have the equipment re-inspected and re-certified and submit written verification to the department that the reportable condition has been corrected before returning the equipment to service.

§74.72. Standards of Conduct for Inspector or Contractor Registrants. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) The provisions in this section apply to both inspectors and contractors, except where noted.
- (b) *Competency.* The registrant, as applicable, shall be knowledgeable of and adhere to the Act, this chapter, the ASME Safety Codes or ASCE Standards as adopted in §74.100, and all procedures established by the department for equipment inspections or performance of a contract to install, alter, repair, or maintain equipment. It is the obligation of the registrant to exercise reasonable judgment and skill in the performance of equipment inspections or performance of a contract to install, alter, repair, or maintain equipment.
- (c) *Integrity.* A registrant shall be honest and trustworthy in the performance of equipment inspections or performance of a contract to install, alter, repair, or maintain equipment, and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission. Acts or practices that constitute threats, coercion, or extortion are prohibited. The registrant shall accurately and truthfully represent to any prospective client his/her capabilities and qualifications to perform the services to be rendered.
- (d) *Interest.* The primary interest of the registrant is to ensure compliance with the Act, this chapter, and the ASME Safety Codes or ASCE Standards adopted in §74.100, and all procedures established by the department. The registrant's position, in this respect, should be clear to all parties concerned while conducting equipment inspections or completing the performance of a contract to install, alter, repair, or maintain equipment.
- (e) *Conflict of Interest.* A registrant is required to avoid conflicts of interest and the appearance of conflicts of interest. A conflict of interest exists when an inspector performs or agrees to perform equipment inspections for a building in which he has a financial interest, whether direct or indirect. A conflict of interest also exists when a registrant's professional judgment and independence are affected by his/her family, business, property, or other personal interests or relationships.

- (f) *Specific Rules of Conduct.* A registrant must not:
- (1) participate, whether individually or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act, this chapter, or the standards adopted by the commission;
 - (2) knowingly furnish inaccurate, deceitful, or misleading information to the department, an owner, or other person involved in equipment inspections or equipment contracts;
 - (3) state or imply to an owner that the department will grant a delay or waiver;
 - (4) engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing equipment inspections or completing an equipment contract;
 - (5) perform equipment inspections or complete an equipment contract in a negligent or incompetent manner;
 - (6) perform equipment inspections in a building or facility in which the inspector registrant is an owner, either in whole or in part;
 - (7) perform equipment inspections in a building or facility wherein the registrant, for compensation, participated in obtaining an equipment contract for the building;
 - (8) indulge in advertising that is false, misleading, or deceptive;
 - (9) misrepresent the amount or extent of prior education or experience to any client; or
 - (10) hold out as being engaged in partnership or association with any person unless a partnership or association exists in fact.
- (g) An inspector is prohibited from performing inspections upon equipment for which the inspectors' employer also has a contract to perform installations, maintenance, repairs, replacements or alterations on that equipment.
- (h) A registrant must withdraw from employment when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client. A registrant must provide reasonable notice to the client of the registrant's withdrawal.
- (i) An inspector must attend all mandatory training required by the executive director.
- (j) A registrant must notify the department in writing within 30 days of any changes to information submitted on the application or renewal application.
- (k) In accordance with Health and Safety Code, §754.0112, a registered elevator inspector or a registered contractor is not prohibited from performing an activity regulated by the Act or this chapter if the inspector or contractor is performing the activity as a employee of an institution of higher education.

§74.74. Responsibilities of the Inspector--Inspection Procedures. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962)*

- (a) The inspector must inspect all equipment for compliance with the applicable ASME Safety Codes or ASCE Standards as adopted in §74.100.
- (b) Inspectors must use the latest published edition of ASME A17.2, "Guide for Inspection of Elevators, Escalators, and Moving Walks" to conduct inspections and witness tests for compliance with the ASME Safety Codes or ASCE Standards adopted in §74.100.
- (c) The inspector must report to the owner before beginning any inspections.
- (d) The inspector and the owner must sign and date the inspection report or electronically acknowledge the

report using any electronic method approved by the department.

- (e) The inspector is prohibited from performing any of the tests.
- (f) On new or altered equipment installations, the inspector may perform an inspection prior to the installation being completed. However, on these installations the department will only accept inspection reports for final inspections performed by the inspector after the installation is completed.
- (g) For new installations or alterations to existing equipment, the inspector must verify that approved applications and plans are on the site as specified in §74.111 (b)(3) and is prohibited from proceeding with the inspection without the approved application and plans.
- (h) The inspector must verify that the installation or alterations comply with the approved application and plans.
- (i) New or altered units that fail to comply with the approved application and plans are prohibited from being placed in-service without the prior written approval of the department.
 - (1) The inspector must compare the installation to the approved application and plans.
 - (2) The inspector must not allow any installation that deviates from the approved application and plans to be placed into operation without the specific written authorization of the department.
 - (3) The inspector must not complete the inspection of any new installation or alteration until the inspector has verified that the documents required by §74.79 are on site and stored in the equipment room, machine room, machine space, control room, or control space.
- (j) For Installations removed from service, the inspector must verify compliance with §74.105.

§74.75. Responsibilities of the Inspector--Department Forms. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) The inspector must use current department-approved forms for reporting inspections.
- (b) The department forms must be filled out completely, and must be used to report the inspections of existing equipment and final inspections of new or altered equipment.
- (c) The inspector must list all violations of the technical requirements by code number and code edition for each unit inspected, and include a written description of the violation on the department form. If the technical requirements refer to another code, the inspector must list both code numbers and include a written description of the violation.
- (d) The inspector may not use the department equipment inspection form to report the results of an inspection to the owner of equipment that is exempt under §74.30 and for construction-use only elevators.
- (e) The inspector must obtain from the department the label format file for the Proof of Inspection Stickers the inspector is required to use. The inspector must provide white borderless adhesive labels upon which the information is printed.
- (f) The inspector must obtain from the department the document format file for the Proof of Inspection the inspector is required to use. The inspector must provide white borderless paper upon which the information is printed.
- (g) On completion of an acceptance inspection, the inspector must complete and issue a Proof of Inspection. The inspector must complete and attach a Proof of Inspection Sticker to the Proof of Inspection. The Proof of Inspection with the attached Proof of Inspection Sticker must be posted by the inspector and displayed in a location specified in §74.67 prior to leaving the site of a completed acceptance inspection.
- (h) On completion of an annual inspection, the inspector must complete and issue a Proof of Inspection Sticker. The inspector must attach the Proof of Inspection Sticker to the existing Certificate of Compliance. The existing Certificate of Compliance with the attached Proof of Inspection Sticker must be posted by the

inspector and displayed in a location specified in §74.67 prior to leaving the site of a completed annual inspection.

§74.76. Responsibilities of the Inspector--Inspectors Equipment Test Tags. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) The inspector must purchase test tags from the department and must be the person who attaches these tags to the inspected equipment.
- (b) The inspector must inscribe all required information on each department test tag. Department test tags shall not be replaced until after all date and signature spaces on the tag are filled.
- (c) Upon completion of the initial acceptance test, department test tags must be conspicuously attached to each individual piece of equipment on or adjacent to the equipment controller or main line disconnect.
- (d) All devices and adjustments required to be sealed by the adopted standard must be sealed with wire rope and lead seal by the inspector witnessing the test(s). There is no need to replace the seal unless it is broken. If a seal is broken, an inspector must witness the test and provide a seal as prescribed in this subsection prior to the unit being returned to service. The lead seal must be crimped onto the wire rope using a crimping tool bearing the department's seal and the crimping tool number assigned to the inspector. An inspector may use the required crimping tool to seal lead seals provided by the manufacturer at the factory as long as the assigned number is legible.
- (e) Inspector's equipment may be purchased from the department for \$200 per 100 test tags (sold in multiples of 100).
- (f) The inspector must verify that contractor's test tags are placed on the equipment in conformance with the technical requirements adopted in §74.100.

§74.77. Responsibilities of the Inspector--Inspectors Equipment Decals. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) Each unit of equipment must be identified with a unique identification number decal issued by the department, which the inspector must affix to the upper right hand corner of the control panel. The decal shall remain on the control panel for the life of the equipment.
- (b) An additional department decal must not be affixed to equipment that has a current department decal displayed.
- (c) All correspondence and inspection reports must reference the decal number and building ID number, as reflected on the certificate of compliance.
- (d) If an inspector places a new decal on a unit of equipment to replace a lost or destroyed decal, the inspector must report the equipment's location, old decal number, and new decal number to the department within ten (10) calendar days of placing the new decal number upon the equipment.
- (e) On request by the department, the inspector must report to the department regarding the issuance and disposal of all decals issued to the inspector.

§74.78. Responsibilities of the Contractor--Compliance with Plan Review. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) The contractor must comply with the requirements for plan review as set forth in this chapter.
- (b) The contractor must provide the inspector a copy of the approved application and plans and, upon completion of the inspection, leave a copy of the approved application and plans in the machine room, machine space, control room or control space.

§74.79. Responsibilities of the Contractor--Documents. *(New section adopted effective November 15, 2013, 38 TexReg 7949)*

- (a) All registered contractors who install equipment regulated by the Act must provide the following documents for all equipment provided as part of the contract to install or alter equipment, to the owner of the equipment when installing new equipment or altering existing equipment.
 - (1) a written maintenance control program specifically designed for the equipment;
 - (2) a parts listing with part numbers and exploded view drawings identifying the parts;
 - (3) straight line “as installed” wiring diagrams;
 - (4) any diagnostic interface codes or passwords necessary to perform any code required tests, including but not limited to all access codes, passwords, diagnostic codes, and fault codes;
 - (5) general equipment maintenance, repair, testing, and adjustment procedures, including but not limited to lubrication instructions and recommended grade of lubricants;
 - (6) all unique and product specific maintenance, repair, testing, and adjustment procedures;
 - (7) all unique and product specific inspection procedures; and
 - (8) written procedures as described in the currently adopted standards for complying with the requirements for the special provisions contained therein for the specific equipment.
- (b) The documents listed in subsection (a) shall be in written hard copy format; however, additional electronic copies may also be provided.
- (c) No new installation or alteration shall be permitted to be placed into operation until the inspector has verified that these documents are on site and stored in the equipment room, machine room, machine space, control room, or control space.
- (d) The owner shall not be required to sign any confidentiality or non-disclosure agreements in order to receive these documents, but may be required to sign an acknowledgement of receipt.
- (e) For any document required by this chapter that the registered contractor claims is confidential or protected as a trade secret, the document must be provided to the department for a determination of nondisclosure under Government Code Chapter 552.

§74.80. Fees. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective February 15, 2016, 41 TexReg 962)*

- (a) **Inspector Registration Fees.**
 - (1) Original application--\$50
 - (2) Renewal application--\$50
 - (3) Revised/Duplicate registration card--\$25
- (b) **Certificate of Compliance Filing Fees.**
 - (1) Filing fees submitted within 30 days of the equipment inspection date: \$20 per unit of equipment, along with a copy of the inspection report.
 - (2) Late filing fees: \$10 per unit of equipment for every 30 day period if the inspection report, filing fees, and verification about correcting deficiencies in the inspection report are filed after the 60th day from the equipment inspection date.
 - (3) Revised/Duplicate Certificate Fee--\$25 per certificate

- (c) Waiver or Delay Application Fees.
 - (1) \$50 for each violation of the ASME Safety Codes or ASCE Standards as adopted in §74.100 per unit of equipment requested to be waived or delayed.
 - (2) Fees shall be charged and collected by the department for a waiver or delay application for an institution of higher education.
- (d) Contractor Registration Fees.
 - (1) Original application--\$115
 - (2) Renewal application--\$115
 - (3) Revised/Duplicate registration card--\$25
- (e) Late renewal fees for Inspector and Contractor registrations issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).
- (f) New Technology Variance Fees.
 - (1) Application fee--\$2,500
 - (2) Fee to file an appeal of a denial of an application--\$200
- (g) Fees for Plan Reviews.
 - (1) The plan review fee for the installation or alteration of equipment included in a contract shall be calculated as follows:
 - (A) \$200 for each unit of equipment for which a decal is required; and
 - (B) the maximum fee shall not exceed \$5,000.
 - (2) The fee to review plans on an expedited basis is \$1,000 per unit of equipment included in a contract for which a decal is required. There is no maximum fee or cap for expedited reviews.
- (h) Fees for Amendments to Previously Approved Plan Reviews.
 - (1) The plan review fee for amendments to previously approved plan reviews where the installation or alteration of equipment included in a contract has not been completed shall be as follows:
 - (A) \$100 per unit of equipment for which a decal is required; and
 - (B) the maximum fee shall not exceed \$2,500.
 - (2) The fee to review amendments to previously approved plan reviews on an expedited basis is \$1,000 per unit of equipment included in a contract for which a decal is required. There is no maximum fee or cap for expedited reviews.
- (i) The fee for "Installation Removed from Service" is \$20 per unit of equipment.

§74.90. Administrative Penalties and Sanctions. *(New section adopted effective July 1, 2012, 37 TexReg 4590)*

If a person violates Texas Health and Safety Code, Chapter 754, or a rule, or order of the executive director or commission relating to the Act, proceedings may be instituted to impose administrative sanctions and/or recommend administrative penalties in accordance with the Act or Texas Occupations Code, Chapter 51, and 16 Texas Administrative Code, Chapter 60 and Chapter 74.

§74.100. Technical Requirements--ASME and ASCE Codes. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective November 1, 2018, 43 TexReg 6947)*

- (a) The commission adopts the standards for the installation, maintenance, repair, replacement, alteration, testing, operation, and inspection of equipment that are contained in the following codes:
 - (1) ASME Code A17.1-2016/CSA B44-16 as amended in subsection (b);
 - (2) ASME Code A17.3-2002;
 - (3) ASME Code A18.1-2005; and
 - (4) ASCE Code 21.
- (b) The following amendments shall be made to ASME Code A17.1-2016/CSA B44-16:
 - (1) Delete requirement 1.2.1(c) and all references to ASME Code A17.7 within the adopted standard, preface and appendices.
 - (2) Delete requirement 2.12.7.2.1(c) hoistway access switch on sight guard.
 - (3) Delete 7.4.2.2 and all references to type B material lifts within the adopted standard, preface, and appendices.
 - (4) Delete requirement 8.6.4.19.7 standby or emergency power operation.
 - (5) Delete requirement 8.6.5.14.3(f) standby or emergency power operation.
 - (6) Delete requirement 8.10.2.2.1(q) emergency or standby power operation.
 - (7) Delete requirement 8.10.2.3.2(l) emergency or standby power alterations.
 - (8) Delete requirement 8.10.3.3.2(l) emergency of standby power alterations.
 - (9) Delete the reference to ASME Code A17.3 contained within 9.1.
 - (10) Delete Appendix E in its entirety.
- (c) The effective dates of:
 - (1) ASME Code A17.1-2016/CSA B44-16 and the amendments in subsection (b) shall be effective on November 1, 2018.
 - (2) ASME Code A18.1-2005 shall be effective September 1, 2008.
 - (3) ASME Code A17.3-2002 continues to be in effect.

§74.105. Standards for Equipment Removed from Service. *(Effective February 15, 2016, 41 TexReg 962)*

- (a) Equipment may only be removed from service by a registered inspector using the following procedures:
 - (1) Hydraulic elevators must be brought to the lowest landing with the doors closed and the main line disconnect switch locked in the off position.
 - (2) Electric elevators must be brought to the top landing, with the doors closed and the main line disconnect switch locked in the off position.
 - (3) Escalators must have their main line disconnect switch locked in the off position and each end of the escalator barricaded.
 - (4) All other related equipment must have their main line disconnect switch locked in the off position.

- (b) Equipment removed from service may only have the power restored:
 - (1) by a registered Contractor performing upgrades or alterations;
 - (2) by a registered Inspector performing an Acceptance or Annual Inspection; or
 - (3) with approval of the Department.
- (c) All other related equipment must have their main line disconnect switch locked in the off position.
- (d) Equipment removed from service shall be returned to service after performing an approved acceptance or annual inspection performed in accordance with §74.66.

§74.110. Plan Review--Required. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) Prior to beginning the installation or alteration of equipment at any individual location, the contractor shall submit and have approved an application and plans describing the installation or alteration.
- (b) The contractor shall submit one (1) copy of the plans to be reviewed to the department. These copies shall be submitted in a manner prescribed by the department.

§74.111. Plan Review--New Equipment. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A contractor must submit for review an application and plans for the installation of new equipment.
- (b) To apply for a plan review for the installation of new equipment, a contractor must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required by §74.80; and
 - (3) submit layout drawings as specified in the ASME Code A17.1 adopted in §74.100 for the specific type of equipment to be installed. These layout drawings shall also include:
 - (A) the rated speed of the equipment in feet per minute;
 - (B) the rated capacity of the equipment in pounds;
 - (C) the total travel of the equipment in feet and inches;
 - (D) elevation drawings of the hoistway, runway or wellway; and
 - (E) plan drawings indicating the arrangement of the equipment in a machine room, machine space, control room or control space.

§74.112. Plan Review--Alteration of Existing Equipment. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A contractor must submit for review an application and plans for the alteration of existing equipment.
- (b) To apply for a plan review for the alteration of existing equipment, a contractor must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required by §74.80; and
 - (3) submit a written description of the scope of work, which shall include a description of each

alteration to be performed.

- (c) In addition to submitting the items under subsection (b), a contractor must submit layout drawings as specified in §74.111(b)(3) and the ASME Code A17.1 adopted in §74.100 for the specific type of equipment, if the alteration described in subsection (b)(3) results in one or more of the following changes:
 - (1) the rated speed of the equipment in feet per minute;
 - (2) the rated capacity of the equipment in pounds;
 - (3) the total travel of the equipment in feet and inches;
 - (4) the classification of the equipment, such as passenger elevator to freight elevator or freight elevator to passenger elevator; or
 - (5) the driving machine is re-located.
- (d) In addition to submitting the items under subsection (b), a contractor must submit the following documents for all new equipment provided as part of the alteration of the interior of an elevator car:
 - (1) material safety data sheet; and
 - (2) documentation of the fire rating of all materials installed as part of a car interior alteration, including the estimated weight of those materials.

§74.113. Plan Review--Department Approval or Denial. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

The department shall conduct a plan review of the installation of new equipment or the alteration of existing equipment and may:

- (1) approve the application and plans and other required documents as submitted;
- (2) approve the application and plans and other required documents with conditions; or
- (3) deny the application and plans and other required documents and provide the applicant with the reasons for denial.

§74.114. Plan Review--Amendments. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) If the installation or alteration has already been completed, any changes to an approved application and plans for the installation of new equipment or the alteration of existing equipment must be resubmitted in accordance with §74.111 or §74.112.
- (b) If the installation or alteration has not been completed, a contractor may amend a previously approved application and plans for the installation of new equipment or the alteration of existing equipment.
- (c) To apply for a plan review of any amendments to a previously approved plan review under subsection (b), a contractor must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required by §74.80; and
 - (3) submit a written description of the scope of work which shall include a description of each alteration to be performed.
- (d) In addition to submitting the items under subsection (c), a contractor must submit layout drawings as specified in §74.111(b)(3) and the ASME Code A17.1 adopted in §74.100 for the specific type of equipment, if the alteration described in subsection (c)(3) results in one or more of the following changes:

- (1) the rated speed of the equipment in feet per minute;
- (2) the rated capacity of the equipment in pounds;
- (3) the total travel of the equipment in feet and inches;
- (4) the classification of the equipment, such as passenger elevator to freight elevator or freight elevator to passenger elevator; or
- (5) the driving machine is re-located.

§74.115. Plan Review--Expedited Review. *(New section adopted effective July 1, 2012, 37 TexReg 4590)*

- (a) A contractor may request an expedited review of the plans submitted under §§74.111, 74.112, and 74.114 by payment of the expedited review fee required by §74.80.
- (b) The department may process plan reviews on an expedited basis and issue an approval or denial of those plans, as described under §74.113, within 5 business days after a complete submission by the contractor.

§74.120. New Technology Variances--Application for Variance. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) Prior to the installation of any device, equipment or technology not permitted by the currently adopted standards, a contractor or an equipment manufacturer (“applicant”) must submit an application for new technology variance for approval by the department.
- (b) An application for a new technology variance must contain the following, if applicable:
 - (1) an enumeration and description of all the requirements of the adopted standard for which a new technology variance is being requested;
 - (2) documentary evidence to support a claim of equivalence or superiority to the requirements of the adopted standard;
 - (3) documentary evidence that the new technology is being or may be considered by the ASME code committee(s) for inclusion in a future standard;
 - (4) an estimated time frame for the approval of the new technology by the ASME code committee(s);
 - (5) any additional supporting evidence deemed by the applicant to be necessary to assist in making a determination; and
 - (6) the new technology variance application fees outlined in §74.80.
- (c) The applicant will be advised of the status of the application, in writing, not less often than quarterly.

§74.121. New Technology Variances--Department Approval or Denial. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) The applicant for a new technology variance will be notified of the department’s decision in writing.
- (b) If the new technology variance is approved, the department notification will itemize the specific code requirement deviations for which the variance(s) are approved.
- (c) If the new technology variance is denied, the applicant may appeal the department’s decision in accordance with §74.122.

§74.122. New Technology Variances--Appeal of Variance Denial. *(New section adopted effective July 1, 2012, 37 TexReg 4590; amended effective November 15, 2013, 38 TexReg 7949)*

- (a) A denial of a new technology variance application may be appealed to the director of compliance, or his designee, within 30 calendar days from notification of the department's decision.
- (b) The appeal to the director of compliance, or his designee, must be submitted in writing along with payment of the applicable appeal fee under §74.80. Supporting documentation such as the variance application and all documentation filed to support the application may be submitted for consideration.
- (c) When a variance review determination has been made by the director of compliance, or his designee, the applicant will be advised in writing of the determination.
- (d) A denial of a new technology variance application from the director of compliance, or his designee, may be appealed to the executive director, or his designee, within 30 calendar days of notification of the director of compliance's decision.
- (e) The appeal to the executive director must be submitted in writing. Supporting documentation such as the variance application and all documentation filed to support the application may be submitted for consideration. No additional appeal fees must be submitted.
- (f) When a variance review determination has been made by the executive director, the applicant will be advised in writing of the determination.
- (g) The decision of the executive director regarding the variance application is final and binding on the applicant.